

REMARKS

Claims 64, 66-81, and 123-141 are pending. Claims 64, 66, 67, 72, 73, 76, 77 and 79 have been amended, claims 1-63, 65, and 82-122 cancelled without prejudice, and claims 123-141 added. Support for new claims 123-141 can be found in the specification. Support for claims 123, 124, 128, and 129 can be found, for example, at page 13, lines 12-13. Support for claims 125 and 130 can be found, for example, at page 12, lines 15-17 and 25-26. Support for claims 126 and 131 can be found, for example, at page 6, line 3. And support for new independent claim 127 can be found, for example, at page 12, lines 17-19 and in Figures 1, 7 and 11-14. Support for claims 132-141 can be found, for example, in Figures 15-20.

RESTRICTION/ELECTION

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In preparing this response, it was noted that the Response to the Restriction Requirement dated February 12, 2007 included a provisional election of Group V, which was identified in the Restriction Requirement set forth in the Office Action dated December 11, 2006 as corresponding to claims 64-81, but that an election of one of the species set forth in the Office Action as corresponding to (1) Figures 11-14 and (2) Figures 15A-15D inadvertently was not made.

The undersigned further submits that the species requirement was incomplete as it did not include in addition to the occluding member specie illustrated in Figs. 15CF, D & F, the occluding member species illustrated in Figures 16A-G; Figures 17A-D; Figures 18A-E, Figures 19A-B; and Figures 20C-F. The method identified as corresponding to Figures 11-14 should have been the method corresponding to Figures 7-14 as identified in the specification at page 16, lines 3-4 and that the cannula of Figure 5, which can be an occlusion member, can be substituted for cannula or occlusion member illustrated in Figures 2, 7 and 11-14. The Restriction Requirement also did not include an identification of the variation of the tubular punch or cutting tool illustrated in Figures 15A, B, and E as shown in Figures 20A-D, which has an adapter that holds needles, and is claimed in claim 79 and therefore in the claims that depend therefrom (claims 80-81).

The undersigned also notes that the Office Action dated April 19, 2007 indicated that claims 77-81 would be allowable if rewritten into independent form including all of

the limitations of the base claim and any intervening claims, but that claims 77-78 relate to embodiments illustrated in Figures 17A-C and claims 79-81 relate to embodiments illustrated in Figures 20A-F and 21A-C and these embodiments were not identified in the election of species requirement.

In light of the foregoing, Applicant requests reconsideration and withdrawal of the election of species requirement.

DISCUSSION OF REJECTIONS

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Popov et al

Claims 66 and 74 were rejected under 35 U.S.C. § 102(b) as being anticipated by Popov et al (U.S. Patent No. 5,702,412).

Original claim 66 claimed “inserting an occluding member into the opening cut into the vessel.” In the Office Action it is stated that Popov et al inserts an occluding member (30 or 32) into the opening. However, Applicant submits that Popov et al does not insert an occluding member into an opening in a vessel. Popov et al inserts corkscrew element 30 in a vessel wall and then cuts the vessel wall with cylindrical cutter 30. Neither corkscrew element 30 nor cylindrical cutter 32 is inserted into an opening in the vessel wall. Applicant further notes that claim 66 has been amended to change “cut into” to “formed in” for consistency with the preceding phrase in the claim and to correct an obvious grammatical error and not to distinguish the claim over Popov et al. Since claim 74 depends from claim 66, the foregoing arguments also apply to claim 74.

Applicant requests reconsideration and withdrawal of this rejection.

Swanson et al

Claim 64-66, 69-71, 74 and 76 were rejected 35 U.S.C. § 102(e) as being anticipated by Swanson et al (U.S. Patent No. 6,113,612).

Claim 64 as amended recites “the cannula is introduced into the vessel wall from the interior of the vessel” and this is not disclosed or suggested in Swanson et al. The Office Action states that tube 240 in Swanson et al is positioned in the vessel wall from the interior of the vessel using guidewire 210, which is in the interior of the vessel.

However, Swanson et al does not introduce tube 240 into a vessel wall from the interior of the vessel as set forth in amended claim 64.

Amended claim 66 recites: forming an opening in a wall of a blood vessel and removing a portion of the wall where the opening was formed. Swanson et al introduces a guidewire 210 and tapered member 220 through a vessel wall, but does not disclose removing a portion of the vessel wall where an opening is formed in the vessel wall.

Claims 69-71, 74 and 76 depend directly or indirectly from claim 66. Accordingly, reconsideration and withdrawal of the rejection under Swanson et al is requested.

LeMole

Claims 66-68, 72 and 73 were rejected under 35 U.S.C. § 102(e) as being anticipated by LeMole (U.S. Patent No. 5,893,369).

Claim 66 recites: anastomosing a graft to the vessel at the opening. In contrast, LeMole attaches graft 14 to vessel 12 before forming an opening in the vessel (see, e.g., column 5, line 34-column 6, line36). Therefore, LeMole does not disclose or suggest the method claimed in claim 66. Claims 67-68, 72 and 73 depend directly or indirectly from claim 66. Accordingly, reconsideration and withdrawal of under LeMole rejection is requested.

Popov et al in view of Ho et al

Claim 75 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Popov et al in view of Ho et al (U.S. Patent No. 6,514, 265). Claim 75 indirectly depends from claim 66. Since Ho et al does not make up for the deficiencies in Popov et al as noted above in connection with claim 66, a prima facie case of obviousness has not been established. Reconsideration and withdrawal of this rejection is requested.

Applicant appreciates the indication that claims 77-81 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 77 and 79 have been rewritten in independent form, but do not include all of the limitations of the original base or intervening claims and language has been changed for clarification. Applicant submits, however, that independent claims

77 and 79 are allowable as they include features not disclosed or suggested in the cited references. Claim 78 depends from claim 77 and claims 80 and 81 depend directly or indirectly from claim 79. Accordingly, Applicant submits that claims 77-81 are allowable.

The methods in new claims 123-141 also are not disclosed or suggested in the cited references.

CONCLUSION

Applicant submits that the pending claims are in condition for allowance and respectfully requests the issuance of a formal Notice of Allowance at an early date. If a telephone interview would advance prosecution of the application, the Examiner is invited to telephone the undersigned at the number provided below.

If Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due, including additional claims fees, in connection with the filing of this document to Deposit Account No. 13-2546 referencing Attorney Docket No. P-21729.02.

Respectfully submitted,

Date August 20, 2007

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